

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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Peak Corporation,

Plaintiff,

-against-

El Viajero Brands,

Defendant.  
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MEMORANDUM AND ORDER

07-CV-1075 (ENV) (CLP)

VITALIANO, D.J.

On August 1, 2008, Magistrate Judge Cheryl L. Pollack issued her Report and recommended that plaintiff's complaint be dismissed for failure to prosecute this action. Neither plaintiff nor defendant has objected to the Report and Recommendation within the time prescribed by 28 U.S.C. § 636(b)(1).

In reviewing a Report and Recommendation, this Court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985).

After careful review of the record, the Court finds Magistrate Judge Pollack's Report and Recommendation as to the dismissal of the complaint for failure to prosecute to be correct, well-reasoned, and free of any clear error. The Court, therefore, adopts the Report and Recommendation in its entirety as the opinion of the Court. Accordingly, the complaint is dismissed with prejudice for failure to prosecute this action.

The Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Brooklyn, New York  
September 2, 2008

s/ENV

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ERIC N. VITALIANO  
United States District Judge